

Remarks

This amendment responds to the official action of February 26, 2008 and is accompanied by a request for extension under 37 C.F.R. §1.136(a) and the necessary official fee. The number of claims is unchanged. No new matter is presented.

Claim 5 was considered indefinite for lack of antecedent basis for "the far end of the arm" at line 3. In claim 5 as amended, the corresponding recital is, "a far end of the arm remote from the mounting fixture." Claim 5 is definite.

Official objection was made to the drawings and claim 6 because the directional adjustability of the additional shower fixtures was considered to lack adequate illustration in the drawings. Applicant has obviated the rejection by canceling claim 6, without prejudice to the fact that the independent claim does not exclude an embodiment wherein one or more of the additional fixtures can be adjusted as to its spray direction. This objection is also overcome.

Claims 1, 3-10 and 12-15 were rejection under 35 U.S.C. §103 as unpatentable over a combination of Perkins (1,354,838), Colman (6,227,510) and Elkins et al. (3,865,310).

Perkins is cited for a shower head 16 on a pivotable water-carrying arm 10 that includes additional fixtures 14, 15 (see Perkins' Fig. 1). In the official action it is posited that Colman's shower head 28b (shown in Fig. 3) could be substituted for shower head 16 of Perkins, and provided with a holding receptacle as in Elkins, to enable the shower head to be detached for manual spraying.

Claim 1 has been amended to better distinguish over the prior art of record. Claim 1 now further recites that the shower hose by which the hand shower is supplied independently with water, leads from the mounting fixture that adjustably carries the shower support, to the handgrip of the removable shower head. It would not be predictably successful, routine or obvious to modify the prior art Perkins structure to substitute and add elements of Colman and Elkins. Moreover, even to

make that combination would not reach the invention claimed as a whole. Therefore, claim 1 and the claims depending from claim 1 are allowable as now presented.

For a pivotably adjustable water-carrying arm, the official action refers to Perkins. Referring to Fig. 4 of Perkins, it can be seen that that the prior art fixture is configured so that when arm 10 is vertical, the water connection to spray heads 14, 15, 16 is cut off. See page 1, lines 47-61. It is by tilting the arm toward the direction shown in Fig. 1 or 4 of Perkins that the water supply is turned on and water is channeled to the spray heads. When the arm 10 is upright, the flow is stopped or redirected into the tub via port 18.

A person of ordinary skill would not consider substituting Colman's hand shower 28b for Perkins' shower head 16 as likely to result in a successful design for personal showering. If the Perkins arrangement cannot be used when the arm is upright, then the person of ordinary skill cannot expect to use the additional fixture shower heads on the pivot arm and/or the proposed removable shower head, either alternatively or in addition to one another.

The pivot arm 10 in the proposed combination would interfere with the showering person's ability to manipulate the hand shower. The only position of arm 10 in which the removable shower head could spray is a position wherein arm 10 is inclined over the tub as in Perkins' Figs. 1 or 4. This is not a position in which the person showering would find it possible or convenient to use the removable hand shower head.

Using a hand shower involves detaching the hand shower head from the support and manually spraying oneself from any point and in any direction within the reach of the shower hose. If Perkins' shower head 16 is made detachable, it would be necessary to control the position of arm 10 with one hand while manipulating the removable shower head with the other hand. For a standing person, tilting the arm would make it necessary to back away from the sprays of additional fixtures 14, 15. This is plainly an awkward and unlikely arrangement. There is no basis for a person of ordinary skill to believe that adapting the Perkins arrangement, by substituting

Colman's removable shower head for shower head 16, would be workable, let alone likely to produce an improved or successful shower facility as a result.

Importantly, the combination of substitutions and changes that are suggested in the official action, also do not meet the invention claimed as a whole. Claim 1 formerly recited that the additional shower fixture and the removable shower head were supplied with water independently of one another. Claim 1 is now amended to recite further that the shower hose that supplies the removable shower head, leads from the mounting fixture to the handgrip of the shower head. This aspect further defines the removable shower head and the independent nature of the water supplies. The hand shower is not supplied through the pivot arm or specifically at the end of the pivot arm. Applicant's arrangement is alternatively useful when affixed to the shower head holder (the mechanical receptacle) on the end of the arm, or detached for manual spraying, but is independently supplied with water, which is unlike the prior art and unlike the routine result of substituting features of the cited prior art references for one another.

The prior art does not meet the invention claimed as a whole, even if combined as suggested, and it is not possible to regard the difference as simply a substitution of elements used for the same reasons as such elements were used in the source references from which the elements are cited.

The prior art devices of Colman and Elkins couple their removable shower heads via hoses extending between the removable shower head and a free end of their respective conduit arms.

Thus Colman's hose for shower head 28b is coupled to arm 16 immediately downstream of the shutoff valve 26b. The two shutoff valves of Colman, 26A, 28b, are discussed at col. 5, line 63 to col. 6, line 3, wherein it is provided that each of the two arms has a shutoff valve. Elkins' hose also couples to the end of the arm/conduit (although Elkins is cited only for a mechanical holder for a hand shower head).

Assuming that the person of ordinary skill decided for some reason to try putting Colman's (or Elkins') removable shower heads on a conduit or arm, the hose

connection would also be coupled to that arm, which aspect is found in the cited prior art references, and by extension, would be the way routinely to substitute Colman's or Elkin's hand shower head for shower head 16 of Perkins. Applicant's invention claimed as a whole would not be met. The combination lacks coupling of the hose to a source independent of the arm supplying Perkins' fixtures 14, 15. The combination lacks a hose leading from the mounting fixture to the hand shower handgrip.

In order to reach applicant's invention from the prior art, it is necessary not only to substitute known elements for one another, but also to re-think the functions that are involved. Applicant's invention provides independently controlled and independently operated hand shower head and additional fixture shower head spray devices wherein the hand and additional devices are useful together on the arm, and also useful separately or in unison when the hand shower is removed from the arm to be directed manually. This arrangement is not found in the prior art and there is no basis to believe that the person of ordinary skill would find it routine or predictably successful within the level of ordinary skill as evidenced by the cited prior art. Therefore, the claimed invention is properly patentable.

All matters of form have been corrected. The differences between the invention and the prior art are such that the subject matter claimed as a whole is not shown to have been obvious. Reconsideration and allowance of pending claims 1, 3-5, 7-10 and 12-15 are requested.

Respectfully submitted,

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